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IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
2005 NOV 14 A 9:43
NORTHERN DIVISION

DEBRA R. HACKETT, CLERK
DON MARTIN, #184335 U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

Plaintiff,

v.

Civil Action No: 2:05-CV-982-D

LOUIS BOYD, et al.,

Defendants.

OBJECTION TO MAGISTRATE JUDGE'S ORDER

DATED OCTOBER 18th, 2005

Comes now the plaintiff, Don Martin, pro-se, and through inmate assistance, and moves this Honorable Court to set aside the Magistrate Judge's order dated October 18th, 2005, granting leave to proceed in forma pauperis filed by plaintiff on October 13th, 2005. Pursuant to the "CONSOLIDATED APPROPRIATIONS ACT of 2005", the filing fee for civil actions has increased to \$250.00, from the \$150.00 that plaintiff was willing to pay. The Magistrate Judge order violated plaintiff's Due Process, and prays that this Court will overrule the magistrate judge's order and dismiss plaintiff's 42 U.S.C. § 1983 complaint without prejudice, and without having to pay the cost of filing fees; and for good cause plaintiff Martin shows this Court why this objection should be granted;

1. Plaintiff Martin received the "ORDER" of the Magistrate Judge on or about October 22nd, 2005, granting in forma pauperis under the "Consolidated Appropriations Act of 2005".
2. Plaintiff did not know and did not understand the "NEW" Consolidated Appropriation Act of 2005 until October 22nd

2005.

3. Within the "order on motion", dated October 18th, 2005, it clearly stated

NOTICE TO PRISONERS: Pursuant to the 1996 revisions to 28 U.S.C. § 1915, the requisite for filing civil actions in forma pauperis have substantially changed. Additionally, in accordance with the provision of the Consolidated Appropriations Act of 2005, the filing fee for civil actions has increased to \$250. The attached notice contains an explanation of these changes.

4. This notice to prisoners, and to plaintiff is not the notification that is required by the Due Process Clause of the - Fifth Amendment.
5. Notice "MUST" include prior notice of an action, with the opportunity to either accept or reject the action.
6. The Magistrate Judge did not give the plaintiff an opportunity to be heard upon such "NOTICE", and thereby the magistrate judge's "Order granting in forma pauperis" violated the Due PROCESS Clause.
7. Proceeding must be adequate to safeguard plaintiff's Rights, and had plaintiff knew of the "Consolidated Appropriations Act of 2005", Plaintiff would not have filed his 42 U.S.C. § 1983 complaint.

WHEREFORE, THE PREMISES CONSIDERED, and founded in tenets of fairness and equity the plaintiff prays that this Honorable Court will reconsider the Magistrate Judge's order dated October 18th, 2005, for lack of notification of the Consolidated Appropriations Act of 2005, and the denial of plaintiff to answer

or be heard, and deny plaintiff's in forma pauperis status. There by dismissing plaintiff's 42 U.S.C. § 1983 complaint without having to pay cost of filing fees, and without prejudice, and whatever this Honorable Court deems fair and equal.

Respectfully Submitted,

Donn Martin 184335
DON MARTIN #184335

DONE this the 7 day of November, 2005.